

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION

4 UNITED STATES OF AMERICA,

5 Plaintiff,

Case No. 11-20129-12

Case No. 11-20066-6

6 -v-

7 VICTOR CARLOS CASTANO,

8 Defendant.

9 **ARRAIGNMENT AND MOTION HEARING**

10 BEFORE **MAGISTRATE JUDGE MONA K. MAJZOUB**
11 United States Magistrate Judge
12 Theodore Levin United States Courthouse
13 231 West Lafayette Boulevard
14 Detroit, Michigan
15 **Monday, July 16, 2012**

16 **APPEARANCES:**

17 FOR THE PLAINTIFF: SAIMA MOHSIN
18 U.S. Attorney's Office
19 211 W. Fort Street Suite 2001
20 Detroit, MI 48226

21 FOR THE DEFENDANT: DAVID S. STEINGOLD
22 Law Offices of David S. Steingold PLLC
23 400 Monroe Street Suite 280
24 Detroit, MI 48226

25 **TRANSCRIBED BY:**
Christin E. Russell
FCRR, CRR, RPR, CSR-5607

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1 Detroit, Michigan

2 July 16, 2012

3 3:49 p.m.

4 * * *

5 THE CLERK: The Court calls case 11-20066, Defendant
6 6, and case No. 11-20129, Defendant 12. United States of
7 America vs. Victor Carlos Castano.

8 MS. MOHSIN: Your Honor, Saima Mohsin appearing on
9 behalf of the United States.

10 MR. STEINGOLD: Good afternoon, your Honor. David
11 Steingold appearing on behalf of Victor Carlos Castano.

12 Your Honor, there's actually two cases. I guess we --

13 THE COURT: Yes. There's 11-20066 and 11-20129.

14 MR. STEINGOLD: That is correct.

15 Your Honor, this is the date set for a completion of
16 arraignment. My client will acknowledge receipt of the
17 indictments in both cases. We've tendered an acknowledgment to
18 the Court, stand mute to the charges in both cases, and ask a
19 plea of not guilty be entered.

20 THE COURT: Thank you.

21 Will the defendant state his name to the Court,
22 please?

23 THE DEFENDANT: Victor Carlos Castano, Jr.

24 THE COURT: Mr. Castano, you are charged in criminal
25 case No. 11-20066, by way of indictment. You are charged in

1 counts 1, 2, 3, 4, 5 and 6 of this indictment.

2 I have your signed acknowledgment of indictment in
3 criminal matter No. 11-20066. By signing this document, you're
4 representing to this Court that you understand the charges as
5 they are pled against you in this indictment, and furthermore,
6 that you understand the potential penalties should you either
7 plead guilty or be found guilty of these charges.

8 Is that a fair statement, sir?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: I'm entering your plea of not guilty in
11 criminal No. 11-20066.

12 With regard to criminal matter No. 11-20129, you are
13 also charged in that -- in this matter by way of indictment. I
14 do have your signed acknowledgment of indictment in criminal
15 matter No. 11-20129.

16 Again, by signing this document, you're representing
17 to this Court that you understand the charges as they are pled
18 against you in this indictment, and furthermore, that you
19 understand the potential penalties, should you either plead
20 guilty or be found guilty of these charges.

21 Is that a fair statement?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: I am entering your plea of not guilty in
24 criminal matter No. 11-20129.

25 Now, moving onto the matter of the detention hearings.

1 MR. STEINGOLD: Your Honor, before we proceed with the
2 detention hearing, there's two matters I would like to place on
3 the record.

4 THE COURT: Could you speak into the mic, please?

5 MR. STEINGOLD: Yes, your Honor. I'm sorry.

6 The first being, your Honor, I've been provided
7 information that suggests that the investigation in this matter
8 is ongoing; and that amongst the persons who were persons of
9 interest were former Judge Paul Cassidy, as well as an attorney
10 in Macomb County named Al Addis, who I understand was or is
11 still a partner in the Kitch firm. As --

12 THE COURT: Actually he is, he is not.

13 MR. STEINGOLD: He is not?

14 THE COURT: No.

15 MR. STEINGOLD: I know he was in some capacity.

16 THE COURT: I don't know that he was ever a partner in
17 that law firm. I could be wrong, but my understanding was he
18 had a separate agreement.

19 MR. STEINGOLD: Is of counsel?

20 THE COURT: Perhaps. But I don't believe he was ever
21 a partner.

22 MR. STEINGOLD: I happened to have had dealings with
23 Mr. Addis over the last six months, because he had come in as
24 co-counsel on a matter that's currently pending in front of
25 Denise Page Hood. And that in that regards, he at least was

1 sending me letters on the Kitch stationery. I don't know what
2 his position is. I understand that Jim Thomas was retained by
3 the Kitch firm regarding a subpoena for records.

4 This is information that's been provided to me. I
5 don't know how accurate it is. I believe it's fairly accurate.
6 And I'm bringing it to the Court's attention because, of
7 course, I know your relationship to Mr. Kitch. I do not know
8 that it, and I'm not alleging that it constitutes a conflict
9 because I don't know the status.

10 I would ask the Court though, if necessary, to inquire
11 the Government the situation and to take whatever action, if
12 any, you think is necessary.

13 THE COURT: Well, let me state on the record before I
14 address the Government that, number one, I do know that Mr.
15 Addis is no longer affiliated with the Kitch law firm. That, I
16 do know.

17 My information and belief is that Mr. Addis was not a
18 partner with the firm; that he had a separate agreement. And I
19 don't believe he ever attended a shareholder meeting, that I'm
20 aware of, because I don't think he had shareholder status with
21 the firm.

22 With regard to the issue that you related involving
23 Mr. Thomas, why is it that Mr. Thomas and Mr. Kitch's name have
24 come up in this case?

25 I don't know anything about whether Mr. Thomas was

1 retained by Mr. Addis for purposes of responding to a subpoena.
2 He may have been. I just don't know one way or the other. And
3 I don't know whether he actively represents Mr. Addis. He may.
4 I don't deny it. I just don't know one way or the other.

5 And whether or not any investigation is ongoing with
6 regard to Mr. Addis, again, I have no information. I don't
7 know if Ms. Mohsin can -- Mohsin can enlighten us.

8 MS. MOHSIN: Judge, first of all, the information that
9 Mr. Steingold placed on the record did not come from the
10 Government. So I'm not sure what his source of information is;
11 it was not the Government. We did not provide him with any of
12 that information.

13 THE COURT: I don't think that he needs to state
14 that --

15 MS. MOHSIN: I just want the record to be clear.

16 THE COURT: -- it was the Government. Yes.

17 MS. MOHSIN: Secondly, whether or not any one
18 particular individual is or is not a target of this
19 investigation, it would not be appropriate for the Government
20 to comment upon, as I indicated to Mr. Steingold.

21 I don't believe there is a conflict. I am aware that,
22 that Mr. Addis was not a partner in the law firm; that he was
23 of counsel; and that he's no longer of counsel to that law firm
24 any longer.

25 Unless the Court has any knowledge of this case or any

1 understanding of any of the parties or anything, I don't see
2 where any potential conflict would lie.

3 THE COURT: Well, I don't have any knowledge
4 whatsoever. However, if either of you is asking me to recuse
5 myself, I will step down forthwith.

6 MS. MOHSIN: I am not asking that.

7 MR. STEINGOLD: We are asking the Court recuse itself.

8 THE COURT: Then I will recuse myself.

9 MR. STEINGOLD: Could we ask that this matter be
10 rescheduled?

11 MS. MOHSIN: Judge, I don't know that the basis for
12 that recusal is appropriate. And I just want the Government's
13 objection to be noted on the record, because I don't think that
14 there has been any suggestion by any of the proceedings here
15 that the Court has any connection to this case or that the
16 Court is connected in any way to any investigation that we're
17 -- we are or not involved with. I just want to record to
18 reflect that. I appreciate the Court's recusal, but I do want
19 the record to reflect that we do object to that.

20 THE COURT: All right. To my knowledge, I have no
21 connection to the case, but I think the world knows that I do
22 have a connection to Mr. Kitch. And I think the world knows
23 that I have had a connection to Mr. Thomas. And if there's any
24 appearance of impropriety to be perceived, I will avoid that by
25 recusing myself.

1 And if Mr. Steingold objects to my proceeding today, I
2 wish your objection had come before we did the arraignment,
3 because that would have been more appropriate.

4 MR. STEINGOLD: Your Honor, I didn't think for the
5 simple purpose of arraignment there was --

6 THE COURT: For any purpose, Mr. Steingold. If you
7 think that I am not appropriately seated here and that I bear
8 some bias or some potential, I wish you had brought that up
9 before we proceeded at all, because obviously if you perceive
10 that there is a conflict, the conflict exists from the
11 beginning.

12 MR. STEINGOLD: I appreciate that, your Honor.

13 THE COURT: And not for purposes of the detention
14 hearing alone.

15 MR. STEINGOLD: I appreciate it. I apologize.

16 And just for the Court's record, I'm not alleging that
17 the Court has bias. I'm stating that, as the Court has
18 indicated, the possible appearance of impropriety, in given the
19 choice, I just want to avoid that altogether.

20 THE COURT: I respect that.

21 MR. STEINGOLD: I certainly am not accusing the Court
22 of anything.

23 THE COURT: I understand you're not. But all I'm
24 saying is if you perceive there could be an appearance of
25 impropriety, that appearance of impropriety existed from the

1 time I heard the first word on this matter and did not begin at
2 the time that we were about to launch into a detention hearing.

3 MR. STEINGOLD: I understand, your Honor.

4 THE COURT: That's all I'm saying.

5 So how do you wish to proceed? You know that I am on
6 duty for the rest of the week.

7 MR. STEINGOLD: Your Honor, I'm not sure the
8 procedure. We can put this over till next week, unless there's
9 another magistrate that can hear the matter, at which time I'd
10 make myself available tomorrow or Wednesday, whatever is
11 available.

12 THE COURT: Who is on next week? Does anybody know?
13 I don't know. Do you know?

14 MR. STEINGOLD: I, I don't know.

15 THE COURT: Are you sure you don't know?

16 MR. STEINGOLD: I, I have no idea. I didn't even know
17 it went week-by-week. When I -- when you were here today, I
18 was asking how come Randon wasn't here, and they told me it's
19 week-to-week. You think I would know --

20 THE COURT: Mr. Steingold.

21 MR. STEINGOLD: -- being here that often.

22 THE COURT: You know that.

23 MR. STEINGOLD: No, Judge.

24 THE COURT: Well --

25 MR. STEINGOLD: Honest to God, I didn't.

1 THE COURT: -- let's pick a day next week. And
2 understanding that Mr. Castano will be detained until this
3 matter is heard. But let's pick a day next week, because it
4 won't be me, I can guarantee you that. And we'll schedule it,
5 the detention hearing, for next week.

6 THE CLERK: Judge, Judge Whalen.

7 THE COURT: Oh, what a surprise.

8 MR. STEINGOLD: Who is it?

9 THE COURT: Judge Whalen.

10 MR. STEINGOLD: Whalen? I haven't seen him in a
11 while. I thought Mr. Randon --

12 THE COURT: Judge Randon was sitting last week.

13 MR. STEINGOLD: I thought that he had replaced Steve.
14 I'm sorry. I, I didn't know. Did somebody leave?

15 THE COURT: Pick a date next week.

16 MR. STEINGOLD: I'm sorry, your Honor.

17 THE COURT: We're going to adjourn this. I'm recusing
18 myself.

19 MR. STEINGOLD: Your Honor, I'm beginning on a trial
20 on Monday, so I'd ask for Tuesday, if that's possible.

21 THE COURT: Ms. Mohsin, is that possible?

22 MS. MOHSIN: I will be out of town, so Mr. Straus will
23 handle the detention hearing. I, I can be available earlier,
24 later in this week if there's another judge available, Judge,
25 or we can do it next week at the convenience of the Court, not

1 my calendar.

2 THE COURT: I would rather schedule it during normal
3 duty court hours so that I don't have to interrupt a judge at
4 this juncture. This is a very, very busy time for us with the
5 six-month report, and I don't want to try to destroy a judge's
6 docket. So next week would be just fine, if you can, the both
7 of you can agree on a day.

8 MR. STEINGOLD: Is Tuesday okay with the Government?

9 MS. MOHSIN: I believe it is.

10 THE COURT: Will you be available on Wednesday?

11 MS. MOHSIN: Judge, I'm going to be out of town.

12 THE COURT: Out of town. So Tuesday is fine?

13 MS. MOHSIN: Tuesday is fine. Mr. Straus will handle
14 it.

15 MR. STEINGOLD: Tuesday or Wednesday, if the Court
16 feels that one is better than the other.

17 THE COURT: I don't have any feeling about it
18 whatsoever. I'm recused.

19 MR. STEINGOLD: Let's stay with Tuesday then.

20 THE COURT: Tuesday. All right. We'll set this for a
21 detention hearing, both matters for a detention hearing on
22 Tuesday, which will be the 24th.

23 MS. MOHSIN: Yes, your Honor.

24 THE COURT: Of July. And Mr. Castano will remain
25 temporarily detained until then.

1 MR. STEINGOLD: Thank you, your Honor.

2 MS. MOHSIN: Thank you, your Honor.

3 THE COURT: You're welcome.

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5 (Proceedings concluded at 4:01 p.m.)

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CERTIFICATE OF REPORTER

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11 I certify that the foregoing is a correct transcript
12 from audio recorded proceedings in the above-entitled cause on
13 the date hereinbefore set forth.

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15

16

s/ Christin E. Russell

17

CHRISTIN E. RUSSELL, CSR, RPR, FCRR, CRR

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Federal Official Court Reporter

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